

111TH CONGRESS
2D SESSION

H. R. 5162

To restore Second Amendment rights in the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2010

Mr. CHILDERS (for himself, Mr. SOUDER, Mr. ALTMIRE, Mr. DAVIS of Alabama, Mr. MELANCON, Mr. MICA, Mr. CARNEY, Mr. BURTON of Indiana, Mr. DAVIS of Tennessee, Mr. SHULER, Mr. ROSS, Mr. GINGREY of Georgia, Mr. SESSIONS, Mr. SHUSTER, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. SIMPSON, Mr. ELLSWORTH, Mr. WILSON of Ohio, Mr. BISHOP of Georgia, Mr. CARDOZA, Mr. BOUCHER, Mr. KAGEN, Mr. BARROW, Mr. WALZ, Mr. HILL, Mr. HOLDEN, Mr. HEINRICH, Mr. YOUNG of Alaska, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. MACK, Mr. MARSHALL, Mr. KISSELL, Mr. MORAN of Kansas, Mr. RAHALL, Mr. DINGELL, Mr. DONNELLY of Indiana, Mr. KINGSTON, Mr. MINNICK, Mr. TIAHRT, Mr. TEAGUE, Mr. JONES, Mr. OWENS, Ms. JENKINS, Mr. BOYD, Mr. GENE GREEN of Texas, Mr. CHANDLER, Mr. MCHENRY, Mr. BACHUS, Mrs. HALVORSON, Mr. WHITFIELD, Mr. HODES, Mr. TAYLOR, Mr. GERLACH, Mr. CALVERT, Mr. PERRIELLO, Ms. GIFFORDS, Mr. MCNERNEY, Mr. STUPAK, Ms. MARKEY of Colorado, Mr. DENT, Mr. TANNER, and Mr. BISHOP of Utah) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To restore Second Amendment rights in the District of
Columbia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This title may be cited as the “Second Amendment
3 Enforcement Act”.

4 **SEC. 2. CONGRESSIONAL FINDINGS.**

5 Congress finds the following:

6 (1) The law-abiding citizens of the District of
7 Columbia are deprived by local laws of handguns, ri-
8 fles, and shotguns that are commonly kept by law-
9 abiding persons throughout the United States for
10 sporting use and for lawful defense of their persons,
11 homes, businesses, and families.

12 (2) The District of Columbia has among the
13 highest per capita murder rates in the Nation, which
14 may be attributed in part to local laws prohibiting
15 possession of firearms by law-abiding persons who
16 would otherwise be able to defend themselves and
17 their loved ones in their own homes and businesses.

18 (3) Officials of the District of Columbia have
19 indicated their intention to continue to unduly re-
20 strict lawful firearm possession and use by citizens
21 of the District.

22 (4) Legislation is required to correct the Dis-
23 trict of Columbia’s law in order to restore the funda-
24 mental rights of its citizens under the Second
25 Amendment to the United States Constitution and
26 thereby enhance public safety.

1 **SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT**
2 **FIREARMS.**

3 Section 4 of the Act entitled “An Act to prohibit the
4 killing of wild birds and wild animals in the District of
5 Columbia”, approved June 30, 1906 (34 Stat. 809; sec.
6 1–303.43, D.C. Official Code), is amended by adding at
7 the end the following: “Nothing in this section or any
8 other provision of law shall authorize, or shall be con-
9 strued to permit, the Council, the Mayor, or any govern-
10 mental or regulatory authority of the District of Columbia
11 to prohibit, constructively prohibit, or unduly burden the
12 ability of persons not prohibited from possessing firearms
13 under Federal law from acquiring, possessing in their
14 homes or businesses, transporting for legitimate purposes,
15 or using for sporting, self-protection or other lawful pur-
16 poses, any firearm neither prohibited by Federal law nor
17 subject to the National Firearms Act. The District of Co-
18 lumbia shall not have authority to enact laws or regula-
19 tions that discourage or eliminate the private ownership
20 or use of firearms. Nothing in the previous two sentences
21 shall be construed to prohibit the District of Columbia
22 from regulating the carrying of firearms by a person, ei-
23 ther concealed or openly, other than at the person’s dwell-
24 ing place, place of business, or on other land possessed
25 by the person.”.

1 **SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.**

2 Section 101(10) of the Firearms Control Regulations
3 Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is
4 amended to read as follows:

5 “(10) ‘Machine gun’ means any firearm which
6 shoots, is designed to shoot, or can be readily re-
7 stored to shoot, automatically more than one shot,
8 without manual reloading, by a single function of
9 the trigger. The term ‘machine gun’ shall also in-
10 clude the frame or receiver of any such firearm, any
11 part designed and intended solely and exclusively, or
12 combination of parts designed and intended, for use
13 in converting a firearm into a machine gun, and any
14 combination of parts from which a machine gun can
15 be assembled if such parts are in the possession or
16 under the control of a person.”.

17 **SEC. 5. REPEAL REGISTRATION REQUIREMENT AND AU-**
18 **THORIZE AMMUNITION SALES.**

19 (a) REPEAL OF REQUIREMENT.—

20 (1) IN GENERAL.—Section 201(a) of the Fire-
21 arms Control Regulations Act of 1975 (sec. 7–
22 2502.01(a), D.C. Official Code) is amended by strik-
23 ing “any firearm, unless” and all that follows
24 through paragraph (3) and inserting the following:
25 “any firearm described in subsection (c).”.

1 (2) DESCRIPTION OF FIREARMS REMAINING IL-
2 LEGAL.—Section 201 of such Act (sec. 7–2502.01,
3 D.C. Official Code) is amended by adding at the end
4 the following new subsection:

5 “(c) A firearm described in this subsection is any of
6 the following:

7 “(1) A sawed-off shotgun.

8 “(2) A machine gun.

9 “(3) A short-barreled rifle.”.

10 (3) CONFORMING AMENDMENT.—The heading
11 of section 201 of such Act (sec. 7–2502.01, D.C. Of-
12 ficial Code) is amended by striking “Registration re-
13 quirements” and inserting “Firearm Possession”.

14 (b) CONFORMING AMENDMENTS TO FIREARMS CON-
15 TROL REGULATIONS ACT.—The Firearms Control Regu-
16 lations Act of 1975 is amended as follows:

17 (1) Sections 202 through 211 (secs. 7–2502.02
18 through 7–2502.11, D.C. Official Code) are re-
19 pealed.

20 (2) Section 101 (sec. 7–2501.01, D.C. Official
21 Code) is amended by striking paragraph (13).

22 (3) Section 401 (sec. 7–2504.01, D.C. Official
23 Code) is amended—

24 (A) in subsection (a), by striking “the Dis-
25 trict;” and all that follows and inserting the fol-

1 lowing: “the District, except that a person may
2 engage in hand loading, reloading, or custom
3 loading of ammunition for firearms lawfully
4 possessed under this Act.”; and

5 (B) in subsection (b), by striking “which
6 are unregistrable under section 202” and in-
7 serting “which are prohibited under section
8 201”.

9 (4) Section 402 (sec. 7–2504.02, D.C. Official
10 Code) is amended—

11 (A) in subsection (a), by striking “Any
12 person eligible to register a firearm” and all
13 that follows through “such business,” and in-
14 serting the following: “Any person not other-
15 wise prohibited from possessing or receiving a
16 firearm under Federal or District law, or from
17 being licensed under section 923 of title 18,
18 United States Code,”; and

19 (B) in subsection (b), by amending para-
20 graph (1) to read as follows:

21 “(1) The applicant’s name;”.

22 (5) Section 403(b) (sec. 7–2504.03(b), D.C. Of-
23 ficial Code) is amended by striking “registration cer-
24 tificate” and inserting “dealer’s license”.

1 (6) Section 404(a)(3) (sec. 7–2504.04(a)(3)),
2 D.C. Official Code) is amended—

3 (A) in subparagraph (B)(i), by striking
4 “registration certificate number (if any) of the
5 firearm,”;

6 (B) in subparagraph (B)(iv), by striking
7 “holding the registration certificate” and insert-
8 ing “from whom it was received for repair”;

9 (C) in subparagraph (C)(i), by striking
10 “and registration certificate number (if any) of
11 the firearm”;

12 (D) in subparagraph (C)(ii), by striking
13 “registration certificate number or”;

14 (E) by striking subparagraphs (D) and
15 (E).

16 (7) Section 406(c) (sec. 7–2504.06(c), D.C. Of-
17 ficial Code) is amended to read as follows:

18 “(c) Within 45 days of a decision becoming effective
19 which is unfavorable to a licensee or to an applicant for
20 a dealer’s license, the licensee or application shall—

21 “(1) lawfully remove from the District all de-
22 structive devices in his inventory, or peaceably sur-
23 render to the Chief all destructive devices in his in-
24 ventory in the manner provided in section 705; and

1 “(2) lawfully dispose, to himself or to another,
2 any firearms and ammunition in his inventory.”.

3 (8) Section 407(b) (sec. 7–2504.07(b), D.C. Of-
4 ficial Code) is amended by striking “would not be el-
5 igible” and all that follows and inserting “is prohib-
6 ited from possessing or receiving a firearm under
7 Federal or District law.”.

8 (9) Section 502 (sec. 7–2505.02, D.C. Official
9 Code) is amended—

10 (A) by amending subsection (a) to read as
11 follows:

12 “(a) Any person or organization not prohibited from
13 possessing or receiving a firearm under Federal or District
14 law may sell or otherwise transfer ammunition or any fire-
15 arm, except those which are prohibited under section 201,
16 to a licensed dealer.”;

17 (B) in subsection (b), by adding at the end
18 the following new paragraph:

19 “(3) Ammunition, excluding restricted pistol
20 bullets, to any person not otherwise prohibited from
21 possessing or receiving ammunition.”;

22 (C) by amending subsection (c) to read as
23 follows:

24 “(c) Any dealer licensed under the provisions of this
25 Act may sell or otherwise transfer a firearm to any person

1 or organization not otherwise prohibited from possessing
2 or receiving such firearm under Federal or District law.
3 In the case of a sale or transfer of a handgun to a resident
4 of the District of Columbia, a federally licensed importer,
5 manufacturer, or dealer of firearms in Maryland or Vir-
6 ginia shall be treated as a dealer licensed under the provi-
7 sions of this Act for purposes of the previous sentence,
8 notwithstanding section 922(b)(3) of title 18, United
9 States Code, if the transferee meets in person with the
10 transferor to accomplish the transfer, and the sale, deliv-
11 ery, and receipt fully comply with the legal conditions of
12 sale in both the District of Columbia and the jurisdiction
13 in which the transfer occurs.”;

14 (D) by striking subsection (d); and

15 (E) by striking subsection (e).

16 (10) Section 704 (sec. 7–2507.04, D.C. Official
17 Code) is amended—

18 (A) in subsection (a), by striking “any reg-
19 istration certificate or” and inserting “a”; and

20 (B) in subsection (b), by striking “reg-
21 istration certificate,”.

22 (c) OTHER CONFORMING AMENDMENTS.—Section
23 2(4) of the Illegal Firearm Sale and Distribution Strict
24 Liability Act of 1992 (sec. 7–2531.01(4), D.C. Official
25 Code) is amended—

1 (1) in subparagraph (A), by striking “or ignor-
2 ing proof of the purchaser’s residence in the District
3 of Columbia”; and

4 (2) in subparagraph (B), by striking “registra-
5 tion and”.

6 **SEC. 6. REPEAL HANDGUN AMMUNITION BAN.**

7 Section 601(3) of the Firearms Control Regulations
8 Act of 1975 (sec. 7–2506.01(3), D.C. Official Code) is
9 amended by striking “is the holder of the valid registration
10 certificate for” and inserting “owns”.

11 **SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.**

12 Section 702 of the Firearms Control Regulations Act
13 of 1975 (sec. 7–2507.02, D.C. Official Code) is amended
14 to read as follows:

15 “PENALTIES FOR ALLOWING ACCESS OF MINORS TO

16 LOADED FIREARMS IF INJURY RESULTS

17 “SEC. 702. (a) IN GENERAL.—A person in the Dis-
18 trict of Columbia is guilty of unlawful storage of a firearm
19 if—

20 “(1) the person knowingly stores or leaves a
21 loaded firearm at any premises under the person’s
22 control;

23 “(2) the person knows or reasonably should
24 know that a minor is likely to gain access to the fire-
25 arm without the permission of the minor’s parent or
26 legal guardian; and

1 “(3) the minor kills or injures any person (in-
2 cluding the minor) by discharging the firearm.

3 “(b) EXCEPTIONS.—This section does not apply if—

4 “(1) the firearm was stored in a securely locked
5 container and the person did not inform the minor
6 of the location of the key to, or the combination of,
7 the container’s lock;

8 “(2) the firearm was secured by a trigger lock
9 and the person did not inform the minor of the loca-
10 tion of the key to, or the combination of, the trigger
11 lock;

12 “(3) the firearm was stored on the person’s
13 body or in such proximity to the person that it could
14 be used as quickly and as easily as if it were on the
15 person’s body;

16 “(4) the minor’s access to the firearm was a re-
17 sult of an unlawful entry;

18 “(5) when discharging the firearm, the minor
19 was acting in lawful self-defense or in defense of an-
20 other;

21 “(6) when discharging the firearm, the minor
22 was engaged in hunting or target or sport shooting
23 under the supervision of the minor’s parent or
24 guardian, or under the supervision of another person

1 over the age of 18 with the parent's or guardian's
2 consent; or

3 “(7) the firearm is in the possession or control
4 of a law enforcement officer while the officer is en-
5 gaged in official duties.

6 “(c) MINOR DEFINED.—In this section, the term
7 ‘minor’ means an individual under 16 years of age.

8 “(d) PENALTY.—A person who violates this section
9 shall be subject to a fine not exceeding \$1,000, a term
10 of imprisonment not exceeding one year, or both.

11 “(e) SPECIAL RULE IF VICTIM OF SHOOTING IS
12 CHILD OF PERSON COMMITTING VIOLATION.—If a viola-
13 tion of this section leads to the accidental shooting of a
14 minor who is the child of the person who committed the
15 violation, the United States attorney shall consider both
16 the extent of the minor's injuries and the effect of the
17 minor's injury or death on both of the minor's parents
18 when deciding whether to file charges under this section.
19 No prosecution shall be brought in such circumstances un-
20 less the person who committed the violation behaved in
21 a grossly negligent manner, or unless similarly egregious
22 circumstances exist.”.

1 **SEC. 8. REMOVE CRIMINAL PENALTIES FOR POSSESSION**
2 **OF UNREGISTERED FIREARMS.**

3 (a) IN GENERAL.—Section 706 of the Firearms Con-
4 trol Regulations Act of 1975 (sec. 7–2507.06, D.C. Offi-
5 cial Code) is amended by striking paragraph (2) and re-
6 designating paragraph (3) as paragraph (2).

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply with respect to violations occur-
9 ring after the 60-day period which begins on the date of
10 the enactment of this Act.

11 **SEC. 9. REGULATING INOPERABLE PISTOLS AND HARMO-**
12 **NIZING DEFINITIONS FOR CERTAIN TYPES OF**
13 **FIREARMS.**

14 Section 1 of the Act of July 8, 1932 (sec. 22–4501,
15 D.C. Official Code), is amended as follows:

16 (1) Insert after paragraph (2) the following new
17 paragraph:

18 “(2A) ‘Firearm’ means any weapon, regardless
19 of operability, which will, or is designed or rede-
20 signed, made or remade, readily converted, restored,
21 or repaired, or is intended to, expel a projectile or
22 projectiles by the action of an explosive. Such term
23 does not include—

24 “(A) a destructive device, as defined in
25 section 101(7) of the Firearms Control Regula-
26 tions Act of 1975;

1 “(B) a device used exclusively for line
2 throwing, signaling, or safety, and required or
3 recommended by the Coast Guard or Interstate
4 Commerce Commission; or

5 “(C) a device used exclusively for firing ex-
6 plosive rivets, stud cartridges, or similar indus-
7 trial ammunition and incapable for use as a
8 weapon.”.

9 (2) Amend paragraph (4) to read as follows:

10 “(4) ‘Machine gun’ has the meaning given such
11 term in section 101(10) of the Firearms Control
12 Regulations Act of 1975.”.

13 (3) Amend paragraph (6) to read as follows:

14 “(6) ‘Pistol’ has the meaning given such term
15 in section 101(12) of the Firearms Control Regula-
16 tions Act of 1975.”.

17 (4) Insert after paragraph (6) the following new
18 paragraph:

19 “(6A) ‘Place of business’ has the meaning given
20 such term in section 101(12A) of the Firearms Con-
21 trol Regulations Act of 1975.”.

22 (5) Amend paragraph (8) to read as follows:

23 “(8) ‘Sawed-off shotgun’ has the meaning given
24 such term in section 101(15) of the Firearms Con-
25 trol Regulations Act of 1975.”.

1 (6) Insert after paragraph (9) the following new
2 paragraph:

3 “(9A) ‘Shotgun’ has the meaning given such
4 term in section 101(16) of the Firearms Control
5 Regulations Act of 1975.”.

6 **SEC. 10. PROHIBITIONS OF FIREARMS FROM PRIVATE AND**
7 **SENSITIVE PUBLIC PROPERTY.**

8 The Act of July 8, 1932 (sec. 22–4501 et seq., D.C.
9 Official Code), is amended by inserting after section 3 the
10 following new section:

11 “PROHIBITIONS OF FIREARMS FROM PRIVATE AND
12 SENSITIVE PUBLIC PROPERTY

13 “SEC. 3A. (a) Private persons or entities owning
14 property in the District of Columbia may prohibit or re-
15 strict the possession of firearms on their property by any
16 persons, other than law enforcement personnel when law-
17 fully authorized to enter onto the property or lessees occu-
18 pying residential or business premises.

19 “(b) The District of Columbia may prohibit or re-
20 strict the possession of firearms within any building or
21 structure under its control, or in any area of such building
22 or structure, which has implemented security measures
23 (including but not limited to guard posts, metal detection
24 devices, x-ray or other scanning devices, or card-based or
25 biometric access devices) to identify and exclude unauthor-
26 ized or hazardous persons or articles, except that no such

1 prohibition or restriction may apply to lessees occupying
2 residential or business premises.”.

3 **SEC. 11. REGULATING THE CARRYING OF FIREARMS.**

4 (a) CARRYING RIFLES OR SHOTGUNS.—Section 4 of
5 the Act of July 8, 1932 (sec. 22–4504, D.C. Official
6 Code), is amended by inserting after subsection (a) the
7 following new subsection:

8 “(a-1) Except as otherwise permitted by law, no per-
9 son shall carry within the District of Columbia a rifle or
10 shotgun. A person who violates this subsection shall be
11 subject, as applicable, to the criminal penalties set forth
12 in section 15 and paragraph (2) of subsection (a).”.

13 (b) AUTHORITY TO CARRY FIREARM IN CERTAIN
14 PLACES AND FOR CERTAIN PURPOSES; LAWFUL TRANS-
15 PORTATION OF FIREARMS.—The Act of July 8, 1932 (sec.
16 22–4501 et seq., D.C. Official Code), is amended by in-
17 serting after section 4 the following new sections:

18 “AUTHORITY TO CARRY FIREARM IN CERTAIN PLACES
19 AND FOR CERTAIN PURPOSES

20 “SEC. 4A. Notwithstanding any other law, a person
21 not otherwise prohibited by law from shipping, trans-
22 porting, possessing, or receiving a firearm may carry such
23 firearm, whether loaded or unloaded—

24 “(1) in the person’s dwelling house or place of
25 business or on land owned or lawfully possessed by
26 the person;

1 “(2) by invitation on land owned or lawfully
2 possessed by another;

3 “(3) while it is being used for lawful rec-
4 reational, sporting, educational, or training pur-
5 poses; or

6 “(4) while it is being transported for a lawful
7 purpose as expressly authorized by District or Fed-
8 eral law and in accordance with the requirements of
9 that law.

10 “LAWFUL TRANSPORTATION OF FIREARMS

11 “SEC. 4B. (a) Any person who is not otherwise pro-
12 hibited by law from shipping, transporting, possessing, or
13 receiving a firearm shall be permitted to transport a fire-
14 arm for any lawful purpose from any place where he may
15 lawfully possess the firearm to any other place where he
16 may lawfully possess the firearm if the firearm is trans-
17 ported in accordance with this section.

18 “(b)(1) If the transportation of the firearm is by a
19 vehicle, the firearm shall be unloaded, and neither the fire-
20 arm nor any ammunition being transported shall be read-
21 ily accessible or directly accessible from the passenger
22 compartment of the transporting vehicle.

23 “(2) If the transporting vehicle does not have a com-
24 partment separate from the driver’s compartment, the
25 firearm or ammunition shall be contained in a locked con-

1 tainer other than the glove compartment or console, and
 2 the firearm shall be unloaded.

3 “(c) If the transportation of the firearm is in a man-
 4 ner other than in a vehicle, the firearm shall be—

5 “(1) unloaded;

6 “(2) inside a locked container; and

7 “(3) separate from any ammunition.”.

8 (c) EXCEPTIONS TO RESTRICTIONS ON CARRYING
 9 CONCEALED WEAPONS.—Section 5 of such Act (sec. 22–
 10 4505, D.C. Official Code) is amended—

11 (1) in subsection (a), by striking “pistol un-
 12 loaded and in a secure wrapper from” and inserting
 13 “firearm, transported in accordance with section 4b,
 14 from”; and

15 (2) in subsection (a), by striking “pistol” each
 16 place it appears and inserting “firearm”.

17 **SEC. 12. INCLUDING TOY AND ANTIQUE PISTOLS IN PROHI-**
 18 **BITION AGAINST USING AN IMITATION FIRE-**
 19 **ARM TO COMMIT A VIOLENT OR DANGEROUS**
 20 **CRIME.**

21 Section 13 of the Act of July 8, 1932 (sec. 22–4513,
 22 D.C. Official Code), is amended by striking “section 2 and
 23 section 14(b)” and inserting “sections 2, 4(b), and 14(b)”.

1 **SEC. 13. PROVIDING JURISDICTION TO OFFICE OF ADMIN-**
2 **ISTRATIVE HEARINGS TO HEAR CASES PER-**
3 **TAINING TO DENIAL OR REVOCATION OF**
4 **FIREARM DEALER LICENSES.**

5 Section 6 of the Office of Administrative Hearings
6 Establishment Act of 2001 (D.C. Law 14–76; sec. 2–
7 1831.03, D.C. Official Code) is amended by inserting after
8 subsection (b–1) the following new subsection:

9 “(b–2) In addition to those adjudicated cases listed
10 in subsections (a), (b), and (b–1), this Act shall apply to
11 all adjudicated cases involving the denial or revocation of
12 a dealer license pursuant to section 406 of the Firearms
13 Control Regulations Act of 1975.”

14 **SEC. 14. REPEALS OF DISTRICT OF COLUMBIA ACTS.**

15 Effective on the day before the date of the enactment
16 of this Act, the Firearms Registration Amendment Act of
17 2008 (D.C. Law 17–372) and the Inoperable Pistol
18 Amendment Act of 2008 (D.C. Law 17–388) are repealed,
19 and any provision of law amended or repealed by either
20 of such Acts is restored or revived as if such Acts had
21 not been enacted into law.

22 **SEC. 15. SEVERABILITY.**

23 Notwithstanding any other provision of this Act, if
24 any provision of this Act, or any amendment made by this
25 Act, or the application of such provision or amendment
26 to any person or circumstance is held to be unconstitu-

1 tional, the other provisions of this Act and any other
2 amendments made by this Act, and the application of such
3 provision or amendment to other persons or cir-
4 cumstances, shall not be affected thereby.

○